

REMARKS

Claims 60-82, 95-103, and 111-114 are pending in the application. Claims 60, 67, 76, and 95 stand rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 7,248,719. Claims 60, 67, 76, and 95 stand rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 18 and 22 of U.S. Patent No. 6,154,879. Claims 60-82, 95-103 and 111-114 stand provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1-7, 15-19, 21-22 and 24-25 of co-pending U.S. Patent Application No. 11/763,334.

Reconsideration is requested. No new matter is added. The rejections are traversed. Claims 60-82, 95-103, and 111-114 remain in the case for consideration

DOUBLE PATENTING REJECTIONS

The Applicant submits herewith a terminal disclaimer to overcome the obviousness-type double-patenting rejections over U.S. Patents No. 7,248,719 and 6,154,879. The Applicant respectfully requests the Examiner to withdraw the double-patenting rejections over these patents.

With the submission of the attached terminal disclaimer, the only remaining ground of rejection in this application is the provisional obviousness-type double-patenting rejection over co-pending U.S. Patent Application No. 11/763,334 (“the ‘334 application”). The current application was filed January 23, 2002; the ‘334 application was filed June 14, 2007. Under M.P.E.P. § 804, “[i]f a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.” Accordingly, the Applicant respectfully requests the Examiner to withdraw the provisional obviousness-type double-patenting rejection over the ‘334 application.

The Applicant respectfully suggests that the Examiner discuss with the Examiner in the ‘334 application whether an obviousness-type double-patenting rejection would be appropriate in the ‘334 application.

For the foregoing reasons, reconsideration and allowance of claims 60-82, 95-103, and 111-114 of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 13-1703.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

A handwritten signature in cursive script, appearing to read 'Ariel S. Rogson', is written over a horizontal line.

Ariel S. Rogson
Reg. No. 43,054

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613
Customer No. 60460